THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT APPEAL No. 1044 OF 2005

01-08-2005

Between:

K.Veera Raghava Chowdary

.....APPELLANT

AND

Nizam's Institute of Medical Sciences, rep. by its Executive Registrar,

Punjagutta, Hyderabad & others.

.....RESPONDENTS

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT APPEAL NO : 1044 of 2005

JUDGMENT : (Per Hon'ble Sri Bilal Nazki, ACJ)

This is an appeal against an order passed by the learned Single Judge in writ petition No.11194 of 2005. Since the writ petition has been dismissed, the appeal has been filed. The parties shall be referred to as petitioner and respondents.

The petitioner has passed his M.B.B.S. from Siddhartha Medical College, Vijayawada and completed the one year Compulsory Rotatory Internship by June 2001. He was a local candidate of the Andhra University local area. He has also completed his two year Diploma Course in Anesthesiology from Andhra Medical College, Visakhapatnam in November 2003. Notifications seeking applications for admission for the M.D. were issued by the 1st respondent and the last date for submission of applications was 21.02.2005. Petitioner has submitted his application and appeared in the Entrance Test examination, which was held on 03.04.2005. Results were declared and published on 05.04.2005. The petitioner secured 104 marks out of 150. He also secured 3rd rank in the over all merit list. He submits that the two other candidates Dr.H.Srinivas Shyam Kumar of the Osmania University local area has secured the first rank as he got 110 marks. Dr.B.S.V.Siva Nagaraja of Sri Venkateswara University local area was declared to have secured the second rank having secured 106 marks. The third respondent in the writ petition i.e. Dr.A.Syama Sundar also secured 104 marks. Since both the petitioner and Dr.Syama Sundar have secured 104 marks, in terms of Rules, their over all merit was ascertained by taking into account their M.B.B.S. marks and the petitioner was assigned rank No.3, while Dr.Syama Sundar was given rank No.4. Dr.P.Sateesh Kumar, who secured 83 marks, was assigned rank No.28. Dr.Sateesh Kumar was an Andhra University local area candidate belonging to BC-D group. Dr.P.Muralimohan, who secured 82 marks, has secured 34th rank. He also happened to be a local candidate of the Andhra University area and belongs to Scheduled Caste. Four seats were available in M.D. Anesthesiology course. Out of these four seats, one seat each was reserved for candidates belonging to BC-D group and Scheduled Caste, while two seats had to be filled up on merit ranking

basis.

It is further stated that the Presidential Notification under Article 371-D of the Constitution prescribes that the admission process has to be regulated in accordance with the terms contained in the Presidential Order. Nizam's Institute of Medical Sciences, constituted under the Nizam's Institute of Medical Sciences Act, 1989, is one of those institutions classified as Statewide Educational Institutions in terms of the Presidential Order. According to the petitioner, in terms of para 6 of the Presidential Order, one seat at least has to be unreserved seat, while at least one seat has to be given for each of the three regions i.e. Andhra University local area, Osmania University local area and Sri Venkateswara University local area. The petitioner submits that since there were four seats available in M.D. Anesthesiology P.G. course, 85% of these seats had to be distributed in the ratio of 42:36:22 respectively between Andhra, Osmania and Sri Venkateswara Universities and the 4th seat has to be kept as an unreserved seat. It is further stated that when the Counselling process for admission into M.D. Anesthesiology was taken up on 14.3.2005, the first ranker Dr.H.Srinivas Syam Kumar took the first seat. The next seat was taken by Dr.B.S.V.Siva Nagaraja, the second ranker. Dr.Siva Nagaraja was a BC-D category candidate belonging to the local area of Sri Venkateswara University. Since there were two open category seats, he was counted against the second open category seat. The admission was not provided to the petitioner, according to him, on the premise that both the two open category seats were exhausted and the remaining two seats had to be filled up by BC-D and Scheduled Caste categories respectively. As a result, the 28th and 34th rankers were granted provisional admission into M.D. Anesthesiology course. Both these candidates incidentally were candidates from the Andhra University region. After the admissions were completed, Dr.B.S.V.Siva Nagaraja, the second ranker gave up his admission, as he secured admission in another Department in some other State. So, this seat fell vacant. According to the petitioner, he was entitled to this seat, but they admitted

respondent No.3 in the writ petition Dr.A.Syama Sundar.

Counter has been filed in the writ petition by respondent No.3. We have heard learned counsel for the parties.

The learned Advocate-General submitted that Presidential Order as well as the Rules regarding local reservations, have to be applied and if the petitioner was granted admission, then there would be three candidates from Andhra University area, whereas there would be no candidate either from Osmania University or from Sri Venkateswara University areas. In order to satisfy the condition that each University gets one seat and also the reservations of BC-D and Scheduled Caste are maintained, the respondent No.3 was admitted and the petitioner was not admitted. Since there is no way that if the petitioner was accommodated, then all the three Universities would get one seat each, therefore there was no chance for the petitioner to get admission. The learned Counsel for the petitioner submits that the first two seats should have gone to the OC candidates and the second two seats would go to BC and SC candidates. In that case also, one of the Universities would not get representation, which is a requirement under the Presidential Order. The candidate, who gave up admission i.e. Dr.B.S.V.Siva Nagaraja was from Sri Venkateswara University local area. The petitioner has no grievance with the first Counselling in which Dr.B.S.V.Siva Nagaraja got admission. He had better merit than the petitioner, but he belonged to Sri Venkateswara University local area, and if he was to be replaced, he had to be replaced by a candidate from Sri Venkateswara University area. Therefore in our view, there is no merit in this appeal and no ground for us to interfere in the order passed by the learned Single Judge.

Appeal is accordingly dismissed. No order as to costs.

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(BILAL NAZKI, ACJ)

1st August 2005.

(G.CHANDRAIAH, J)

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